IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.3903 of 2005

Dated: September 27, 2007

Between:

P. Vikramanand Sagar, S/o. Ramanand, aged 30 years, Business, R/o. Adarsh Filling Station, Malkajgiri, Secunderabad – 47, and others.

… Petitioners

And

The Vice-Chairman & Housing Commissioner, A.P. Housing Board, M.J. Road, Nampally, Hyderabad – 500 001, and another.

… Respondents

Order:

Petitioners, who are applicants for allotment of flats constructed by Andhra Pradesh Housing Board, a statutory body constituted under the Andhra Pradesh Housing Board Act, have filed this writ petition seeking Mandamus to declare the action of the respondents in not allotting H.I.G. Flats admeasuring 1400 Sq. ft at Singapore Class Township at Pocharam, Hyderabad to them, at the rate of Rs.10,50,000/- as agreed earlier, and forfeiting Earnest Money Deposit of Rs.10,000/-, as arbitrary and illegal.

2. Heard learned counsel for petitioners and learned Standing Counsel appearing for the respondents.

3. Petitioners claim to have applied for H.I.G. Flats admeasuring 1400 Sq. ft at the aforementioned place and paid Rs.10,000/- each as Earnest Money Deposit after having seen the brochure issued by the first respondent offering flats admeasuring 1100 Sq. ft. to 2,000 Sq. ft, for price ranging between Rs.7.70 lakhs to Rs.15.00 lakhs. The sole basis for filing this writ petition appears to be that in the said brochure, respondents have notified the rates of different category of flats in several blocks. The case of the petitioners is that in the said brochure, it was notified that the cost of flats admeasuring 1100 Sq. ft. to 2,000 Sq. ft would range from Rs.7.70 lakhs to Rs.15.00 lakhs. Petitioners appear to have made their own calculation based on the said cost of flats mentioned in the brochure that a 1400 Sq. ft. flat would cost Rs.10,50,000/-. Their grievance is that after registration of flats, allotment letters were sent to them demanding to deposit 90% out of Rs.12,95,000/- - the cost of the flat.

4. Respondents have filed counter affidavit stating that it is clearly notified in the brochure that a H.I.G. Flat admeasuring 1400 Sq. ft in four-storeyed block would cost Rs.12,95,000/- at the rate of Rs.925 per Sq. ft. It is stated that allotment letters were sent to the petitioners requiring them to pay 90% out of Rs.12,95,000/- and 10% was asked to be paid after handing over possession of the flats. It is also stated that Clause 1 of the allotment letters stipulates that if the allottee fails to pay the said amount, the allotment would stand cancelled and the registration amount would be forfeited.

5. In the aforesaid backdrop, petitioners, basing on their own calculations, cannot contend that the cost of a H.I.G. Flat is only Rs.10,50,000/-. They ought to have been careful while choosing

category of flats in the brochure. Once they pay the E.M.D., they are deemed to have accepted for the allotment and its terms and in view of clause 1 of the allotment letters sent to them, wherein it is clearly stated that in case an allottee fails to pay the amount, the allotment would stand cancelled and registration amount will not be refunded, petitioners are not entitled for refund of the E.M.D. Hence, no direction as sought for can be issued.

6. The writ petition is misconceived and is accordingly dismissed. No order as to costs.

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JUSTICE R. SUBHASH REDDY.

September 27, 2007
MRR